

# SECTION 4

## OVERTIME POLICY



### NALEDI LOCAL MUNICIPALITY

Council resolves to adopt the following proposal as the Overtime Policy of the Naledi Local Municipality

Policy effective date: **[30 May 2012]**

Approved date: **[29 May 2012]**

Resolution: **[141/2012]**

# OVERTIME POLICY

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### 1. INTRODUCTION

This policy shall apply to all employees employed by Naledi Local Municipality who fall within the registered scope of the Bargaining Council in the Republic of South Africa.

### 2. DEFINITIONS

“Agreement” – includes a collective agreement

“Bargaining council” – means a bargaining council registered in terms of the Labour Relations Act, 1995, and, in relation to the public service, includes the bargaining councils referred to in section 35 of that Act

“Basic conditions of employment” means a provision of this Act or sectoral determination that stipulates a minimum term of condition of employment

“Collective agreement” – means a written agreement concerning terms and conditions of employment or any other matter of mutual interest concluded by one or more registered trade unions, on the one hand and, on the other hand –

one or more employers;

one or more registered employer’s organisations; or

one or more employers and one or more registered employer’s organisations;

“Council” includes a bargaining council and statutory council;

“Department” means Department of Labour

“Employee” means

any person, excluding an independent contractor, who works for another person or for the State and who received, or is entitled to receive, any remuneration; and

any other person who in any manner assists in carrying on or conducting the business of an employer

“Labour Relations Act” means the Labour Relations Act, 1995 (Act No. 66 of 1995)

“Ordinary hours of work” means the hours of work permitted in terms of section 5.1 or in terms of any agreement in terms of section 5.2

“Overtime” means the time that an employee works during a day or a week in excess of ordinary hours of work

“Public service” means the public service referred to in section 1 (1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), and includes any organisational component contemplated

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in section 7(4) of that Act and specified in the first column of Schedule 2 of that Act, but excluding –

- a) the members of National Defence Force;
- b) the National Intelligence Agency;
- c) the South African Secret Service;
- d) the South African National Academy of Intelligence;
- e) Comsec.

“Wage” means the amount of money paid or payable to an employee in respect of ordinary hours of work or, if they are shorter, the hours an employee ordinarily works in a day or week

“Week” in relation to an employee, means the period of seven days within which the working week of that employee ordinarily falls

“Work-place” means any place where employees work;

“Remuneration” means any payment in money or in kind, or both money and in kind, made or owing to any person in return for that person working for any other person, including the State

“Senior managerial employee” – means an employee who has the authority to hire, discipline and dismiss employees and to represent the employer internally and externally

### 3. PURPOSE OF THE POLICY

The purpose of this policy is to regulate and restrict all over time worked by Council employees, such that it is reasonable and within the scope of work and budget.

To ensure accountability by all directorates that commission overtime, such that employees are compensated properly and are also allowed time off to re-charge.

### 4. OBJECTIVES OF THE POLICY

- 4.1. To provide a framework for the regulation of overtime, and adherence to legislation.
- 4.2. To provide a framework for the remuneration of employees for work performed outside official working hours.

### 5. APPLICATION OF THE POLICY

This policy is applicable to all staff including temporary workers and casual employees employed by Naledi Local Municipality, with the following exceptions as stipulated Chapter 2(6) of the BCEA (1997).

- § workers in senior management;
- § sales staff who travel and regulate their own working hours;

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- § workers who work less than 24 hours in a month;
- § workers who earn more than the earning threshold set out by the minister (see below);
- § workers engaged in emergency work are excluded from certain provisions.

### Earnings Threshold

*In terms of Government Gazette 30872, all employees earning in excess of R149 736 per annum is excluded from the provisions of Chapter 2 of the BCEA with effect 1 March 2008.*

## 6. OVERTIME

### 6.1. Ordinary Hours of work

As stipulated in Chapter 2(9) of the BCEA (1997), the normal maximum normal working time allowed is 45 hours weekly. This is 9 hours per day (excluding lunch break) if the employee works a five-day week, and 8 hours per day (excluding lunch break) if the employee works more than 5 days per week.

### 6.2. Conditions of working overtime

6.2.1. An employer may not require or permit an employee to work overtime except in accordance with an agreement;

6.2.2. To work more than:

- three hours overtime a day; or
- ten hours overtime a week.

6.2.3. An agreement in terms of section 6.2.2 may not require or permit an employee to work more than 12 hours on any day (including normal working hours)

6.2.4. In the event that the employee needs to work additional overtime (other than the allowed 40 hours per month), special approval needs to be obtained from the relevant director of the department with sufficient motivation.

6.2.5. An employer must pay an employee at least one and one-half times the employee's wage for overtime worked.

6.2.6. Despite section 6.2.5 an agreement may provide an employer to:

- Pay an employee not less than the employee's ordinary wage for overtime worked and grant the employee at least 30 minutes time off on full pay for every hour of overtime worked; or
- Grant an employee at least 90 minutes paid time off for each hour of overtime worked.

6.2.7. An employer must grant paid time off within one month of the employee becoming entitled to it.

6.2.8. An agreement in writing may increase the period contemplated in 6.2.7 to 12 months.

6.2.9. A collective agreement may increase the maximum permitted overtime to 15 hours a week.

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### 7. Approval of Overtime

#### 7.1. Request for overtime and forms

All requests for overtime must be submitted by the supervisor to the Head of departments for approval (before the overtime is performed). The request form must include the following information:

- Motivation of reasons for request to perform overtime
- Steps that were taken to prevent the overtime worked
- Details of the employees that will perform the overtime
- Estimated number of hours which will be worked as well as the period during which the overtime will be worked
- The financial implications of the overtime

#### 7.2. Approval of overtime

##### 7.2.1. The Head of the Department must ensure that:

- Overtime is approved in advance – Full responsibility must be taken for his/her budget on overtime and must approve the overtime within the limits of his/her budget. Other funds may not be diverted for payment of overtime.
- Adequate supervision and control measures are enforced during the performance of overtime duty.
- Record of overtime duty is kept in overtime registers indicating exactly the work done and quantity thereof.
- In emergency situations, ex post facto approval for overtime is given immediately after the completion of overtime duty.
- Employees must sign in and out whilst working overtime.
- The relevant supervisor must also approve the overtime form after satisfying himself that the overtime has indeed been worked.
- The relevant supervisor is also to explain to management the reasons why the overtime is needed and also if it exceeds the 40 hour limit.

##### 7.2.2. Overtime forms

- Forms/Claims must be accompanied with verified copies of overtime registers. The form must also be approved by Human Resources department for verification with compliance with the limitations contained in the approval of overtime.
- Every form must contain the following:

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- The claimant must certify that the overtime indicated has been performed
- A description of the duties performed on each occasion on which overtime was performed
- The claimant's immediate supervisor must certify that he/she has verified the overtime duties being claimed.

### 7.3. Remuneration of Overtime

In terms of the Basic Conditions of Employment Act, 1997 the employee must be remunerated at 1,5 times income for overtime worked on weekdays and Saturdays and 2 times income for overtime worked on Sundays and Public Holidays.

Overtime rates for all staff members shall be calculated as follows

- Weekdays + Saturdays: Basic salary x total hours worked x 1.5 / 173.3
- Sunday + Public Holidays: Basic salary x total hours worked x 2 / 173.3

Remuneration shall only be calculated in terms of hours indicated in the "application form". (i.e. Employees shall only be remunerated for approved duration of overtime)

Overtime worked in excess of the 40 hour limit may only be paid by the approval of the Municipal Manager under exceptional circumstances.

### 7.4. Time-off

Time-off must be used as an alternative to remunerating employees for overtime worked. In applying time off, the municipality must grant an employee at least one-half hours paid time off for each hour of overtime worked on a normal day and two hours off for each hour of overtime worked on a Sunday or a Public holiday.

Time off must be taken within 30 days of the employee becoming entitled to it or can be extended to 12 months by agreement.

## 8. DELEGATION OF POWERS AND AUTHORITY

### 8.1. Delegation

This policy should be applied with due observance of the municipality's policy with regard to delegated powers. Such delegations refer to delegations between the Council and

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Municipal Manager as well as between the Municipal Manager and other responsible officials. All delegations in terms of this policy document should be recorded in writing.

### 8.2. Authority

Any deviation from this policy for whatsoever reason must be authorized by the Municipal Manager and in the case of the municipal manager, the Mayor will authorize.

## 9. IMPLEMENTATION OF THIS POLICY

- 9.1. This policy will be effective from the date the policy is approved per council resolution.
- 9.2. The implementation of this policy cannot be backdated and all sections thereof will only be implemented from date of approval.